

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

SHARON BOBBITT, Individually and On ) No. 04-12263-PBS  
Behalf of All Others Similarly Situated, )  
Plaintiff, ) **CONFIDENTIALITY AGREEMENT**  
vs. )  
ANDREW J. FILIPOWSKI, et al., )  
Defendants. )  
\_\_\_\_\_  
JAMES HOWARD and CHRIS BROWN, )  
On Behalf of Themselves and All Others )  
Similarly Situated, )  
Plaintiffs, )  
vs. )  
ANDREW J. FILIPOWSKI, MICHAEL P. )  
CULLINANE, PAUL L. HUMENANSKY, )  
TOMMY BENNETT, JOHN COOPER, )  
JAMES E. COWIE, MICHAEL H. FORSTER, )  
ARTHUR W. HAHN, THOMAS J. )  
MEREDITH, J. KEVIN NATER and JOHN )  
RAU, )  
Defendants. )  
\_\_\_\_\_

This Confidentiality Agreement is intended to be incorporated into the Stipulation of Settlement dated May 22, 2006 (the "Stipulation"). The terms used herein shall have the same meanings as in the Stipulation.

IT IS HEREBY AGREED AS FOLLOWS:

1. For purposes of this Confidentiality Agreement, the following definitions are used:

(i) "Termination Date" shall mean the date that a final order of the Court of last resort terminating the above-captioned litigation as to all Defendants is no longer subject to further proceedings, appeal or review; (ii) "Divine Materials and Information" means all materials and/or information produced or obtained in connection with the Lawsuits and/or related mediations and settlement discussions regarding, or otherwise obtained regarding, Divine, Inc. (including its present and former parents, subsidiaries, divisions, affiliates, stockholders, officers, directors, employees, agents and any of its legal representatives (and the predecessors, heirs, executors, administrator, successors and assigns of each of the foregoing)) including, without limitation, confidential, highly confidential and non-confidential materials, depositions, interrogatory responses, documents (including, without limitation, information or data stored or recorded in the form of electronic or magnetic media), responses to requests for admissions, privilege logs, and other litigation papers not contained in a public filing; (iii) "Work Product" means attorney work product, expert work product and expert reports; and (iv) "Government Process" means a requirement of law, court order, subpoena, civil investigative demand or other federal, state, local or regulatory government process.

2. Counsel for Plaintiffs and/or the Class Members agree that, within 20 business days after the Termination Date, they shall destroy any copy of Divine Materials and Information under the custody or sole control of counsel for the Plaintiffs and/or the Class Members, if any such materials are in the possession of Plaintiffs and/or any Class Members. Counsel for Plaintiffs and/or

the Class Members further agree that after the Termination Date, they will not obtain, from any source, any Divine Materials and Information. During the interim between execution of this Confidentiality Agreement and the Termination Date, counsel for the Plaintiffs and/or the Class Members shall use Divine Materials and Information only (i) for purposes of the above-captioned litigation; (ii) to comply with any Government Process; or (iii) in connection with any matter during or subsequent to the above-captioned litigation in which counsel for Plaintiffs and/or the Class Members, or any of such counsel, is a party. Upon request, counsel for the Plaintiffs and/or the Class Members shall provide Defendants with written confirmation that, to the best of their knowledge, all documents required to be destroyed have been destroyed. This provision requiring destruction of Divine Materials and Information does not apply to counsel's copies of documents filed with the Court. There shall be no obligation to destroy copies of notes of other materials which are Work Product.

3. Settling Plaintiffs' counsel agree that after the Termination Date, they shall not disclose to any third party any Work Product that contains excerpts or summaries of Divine Materials and Information except (i) to comply with any Government Process; or (ii) in connection with any matter subsequent to the above-captioned litigation in which counsel for plaintiffs and/or the Class Members, or any of such counsel, is a party.

4. Any dispute among the parties hereto concerning the interpretation or application of the Confidentiality Agreement shall be presented to the Court for resolution upon the application of any party hereto.

DATED: May 22, 2006

GILMAN AND PASTOR, LLP  
DAVID PASTOR (BBO #391000)  
60 State Street, 37th Floor

  
DAVID PASTOR (BBO #391000)

Boston, MA 02109  
Telephone: 617/742-9700  
617/742-9701 (fax)

DATED: \_\_\_\_\_, 2006

LERACH COUGHLIN STOIA GELLER  
RUDMAN & ROBBINS LLP  
SAMUEL H. RUDMAN  
DAVID A. ROSENFELD  
MARIO ALBA, JR.

---

SAMUEL H. RUDMAN

58 South Service Road, Suite 200  
Melville, NY 11747  
Telephone: 631/367-7100  
631/367-1173 (fax)

LERACH COUGHLIN STOIA GELLER  
RUDMAN & ROBBINS LLP  
ELLEN GUSIKOFF STEWART  
655 West Broadway, Suite 1900  
San Diego, CA 92101-3301  
Telephone: 619/231-1058  
619/231-7423 (fax)

4. Any dispute among the parties hereto concerning the interpretation or application of the Confidentiality Agreement shall be presented to the Court for resolution upon the application of any party hereto.

DATED: \_\_\_\_\_, 2006

GILMAN AND PASTOR, LLP  
DAVID PASTOR (BBO #391000)  
60 State Street, 37th Floor

---

DAVID PASTOR

Boston, MA 02109  
Telephone: 617/742-9700  
617/742-9701 (fax)

DATED: May 22, 2006

LERACH COUGHLIN STOIA GELLER  
RUDMAN & ROBBINS LLP  
SAMUEL H. RUDMAN  
DAVID A. ROSENFELD  
MARIO ALBA, JR.

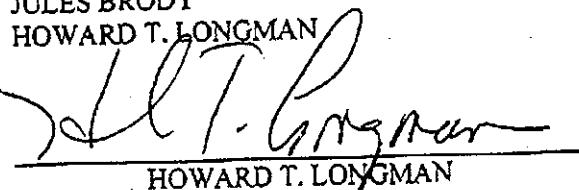
*Samuel H. Rudman / by ef*  
SAMUEL H. RUDMAN

58 South Service Road, Suite 200  
Melville, NY 11747  
Telephone: 631/367-7100  
631/367-1173 (fax)

LERACH COUGHLIN STOIA GELLER  
RUDMAN & ROBBINS LLP  
ELLEN GUSIKOFF STEWART  
655 West Broadway, Suite 1900  
San Diego, CA 92101-3301  
Telephone: 619/231-1058  
619/231-7423 (fax)

DATED: May 22, 2006

STULL, STULL & BRODY  
JULES BRODY  
HOWARD T. LONGMAN

  
HOWARD T. LONGMAN

6 East 45th Street  
4th Floor  
New York, NY 10017  
Telephone: 212/687-7230  
212/490-2022 (fax)

Co-Lead Counsel for Plaintiffs and the Class

ROBBINS UMEDA & FINK, LLP  
MARC M. UMEDA

---

MARC M. UMEDA

610 West Ash Street, Suite 1800  
San Diego, CA 92101  
Telephone: 619/525-3990  
619/525-3991 (fax)

Attorneys for Plaintiffs Mike Turner, James F.  
Howard and Chris Brown

DATED: \_\_\_\_\_, 2006

SPERLING & SLATER  
BRUCE S. SPERLING  
THOMAS D. BROOKS

---

THOMAS D. BROOKS

55 West Monroe Street, Suite 3200  
Chicago, IL 60603  
Telephone: 312/641-3200  
312/641-6492 (fax)

Attorneys for Defendants Andrew J. Filipowski

To: RelayFax via port COM3

From: 6195253991

5/22/2006 3:51:51 PM (Page 2 of 2)

From: DIVINE

6195253991

05/22/2006 13:47

#144 P.002/002

DATED: \_\_\_\_\_, 2006

**STULL, STULL & BRODY**  
**JULES BRODY**  
**HOWARD T. LONGMAN**

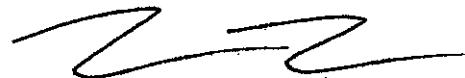
---

**HOWARD T. LONGMAN**

6 East 45th Street  
4th Floor  
New York, NY 10017  
Telephone: 212/687-7230  
212/490-2022 (fax)

Co-Lead Counsel for Plaintiffs and the Class

ROBBINS UMEDA & FINK, LLP  
MARC M. UMEDA



---

**MARC M. UMEDA**

610 West Ash Street, Suite 1800  
San Diego, CA 92101  
Telephone: 619/525-3990  
619/525-3991 (fax)

Attorneys for Plaintiffs Mike Turner, James F.  
Howard and Chris Brown

DATED: \_\_\_\_\_, 2006

**SPERLING & SLATER**  
**BRUCE S. SPERLING**  
**THOMAS D. BROOKS**

---

**THOMAS D. BROOKS**

55 West Monroe Street, Suite 3200  
Chicago, IL 60603  
Telephone: 312/641-3200  
312/641-6492 (fax)

Attorneys for Defendants Andrew J. Filipowski

6 East 45th Street  
4th Floor  
New York, NY 10017  
Telephone: 212/687-7230  
212/490-2022 (fax)

Co-Lead Counsel for Plaintiffs and the Class

ROBBINS UMEDA & FINK, LLP  
MARC M. UMEDA

---

MARC M. UMEDA

610 West Ash Street, Suite 1800  
San Diego, CA 92101  
Telephone: 619/525-3990  
619/525-3991 (fax)

Attorneys for Plaintiffs Mike Turner, James F.  
Howard and Chris Brown

DATED: MAY 22, 2006

SPERLING & SLATER  
BRUCE S. SPERLING  
THOMAS D. BROOKS



THOMAS D. BROOKS

55 West Monroe Street, Suite 3200  
Chicago, IL 60603  
Telephone: 312/641-3200  
312/641-6492 (fax)

Attorneys for Defendants Andrew J. Filipowski

DATED: May 22, 2006

DLA PIPER RUDNICK GRAY CARY US LLP  
SAMUEL B. ISAACSON

Samuel B. Isaacson /SAB  
SAMUEL B. ISAACSON

203 North LaSalle Street, Suite 1900  
Chicago, IL 60601-1293  
Telephone: 312/368-4000

Attorneys for Defendant Michael P. Cullinane

DATED: \_\_\_\_\_, 2006

HOWREY LLP  
JOEL G. CHEFITZ  
JAMES E. HANLON, JR.

JOEL G. CHEFITZ

321 North Clark Street, Suite 3400  
Chicago, IL 60610  
Telephone: 312/595-1522  
312/595-2250 (fax)

Attorneys for Defendant Paul L. Humenansky

DATED: May 22, 2006

KIRKLAND & ELLIS, LLP  
JOHN F. HARTMAN  
MICHAEL A. DUFFY

John F. Hartman /SAB  
~~MICHAEL A. DUFFY~~  
~~John F. Hartman~~

200 E. Randolph Drive  
Chicago, IL 60601  
Telephone: 312/861-2000  
312/861-2200 (fax)

Attorneys for Defendants Tommy  
Bennett, John Cooper, James E. Cowie, Michael  
H. Forster, Arthur W. Hahn, Thomas J. Meredith,  
J. Kevin Nater and John Rau

DATED: \_\_\_\_\_, 2006

DLA P PER RUDNICK GRAY CARY US LLP  
SAMUEL B. ISAACSON

---

SAMUEL B. ISAACSON

203 North LaSalle Street, Suite 1900  
Chicago, IL 60601-1293  
Telephone: 312/368-4000

Attorneys for Defendant Michael P. Cullinane

DATED: May 23, 2006

HOWR BY LLP  
JOEL C. CHEFITZ  
JAMES E. HANLON, JR.

  
JOEL G. CHEFITZ

321 North Clark Street, Suite 3400  
Chicago, IL 60610  
Telephone: 312/595-1522  
312/595-2250 (fax)

Attorneys for Defendant Paul L. Humenansky

DATED: \_\_\_\_\_, 2006

KIRKLAND & ELLIS, LLP  
JOHN F. HARTMAN  
MICHAEL A. DUFFY

---

MICHAEL A. DUFFY

200 E. Randolph Drive  
Chicago IL 60601  
Telephone: 312/861-2000  
312/861-2200 (fax)

Attorneys for Defendants Tommy  
Bennett, John Cooper, James E. Cowie, Michael  
H. Forster, Arthur W. Hahn, Thomas J. Meredith,  
J. Kevin Nater and John Rau